

StMM's roller skating rink qualifies for the charitable purposes exemption provided in Indiana Code § 6-1.1-10-16.

FACTS AND PROCEDURAL HISTORY

StMM is an Indiana not-for-profit corporation. It is recognized by the Internal Revenue Service as a 501(c)(3) organization.¹ StMM's Articles of Incorporation state that its various purposes include "establish[ing] and maintain[ing] institutions . . . for the care of the sick, aged, injured and infirm, according to the principles and ethics of the Roman Catholic Church[,]" "carry[ing] on any educational activities related to . . . the promotion of health[,]" and "participat[ing] in any activity designed and conducted to promote the general health of the communities in which [its] health care institutions . . . may be located." (Cert. Admin. R. at 84.)

StMM owns and operates two hospitals and eighteen "offsite" facilities in northwest Indiana. Among these "offsite" facilities, and the subject matter of this appeal, is StMM's 160,804 square foot Omni 41 Health & Fitness Connection (Omni), located in Schererville, Indiana. Approximately 75.1% of the Omni is used as a fitness/wellness center, 2.3% is used as a pediatric rehabilitation area, and 22.6% is used as a public roller skating rink.

For the 1998 tax year, StMM applied for, and received, a charitable purposes exemption on 76.5% of the Omni.² In a letter dated February 4, 2000, however, the

¹ Internal Revenue Code § 501(c)(3) exempts from federal income taxes those corporations that meet specified criteria.

² In its application, StMM claimed that 76.5% of the Omni should be exempt because it was "used for medical purposes and parking for patients, employees and physicians." (Cert. Admin. R. at 172.)

Lake County Property Tax Assessment Board of Appeals (PTABOA) revoked the Omni's exemption for the year at issue.³ (See Cert. Admin. R. at 183-84 (footnote added).)

StMM subsequently filed an appeal with the State Board of Tax Commissioners (State Board), challenging the PTABOA's exemption revocation. The State Board held a hearing on the matter on June 6, 2001. On January 14, 2004, the Indiana Board issued a final determination upholding the PTABOA's exemption revocation.⁴

StMM initiated an original tax appeal on February 25, 2004.⁵ The Court heard the parties' oral arguments on February 1, 2007. Additional facts will be supplied as necessary.

³ During the administrative hearing, the St. John Township Assessor indicated that he had not questioned StMM's application for an exemption because, based on how it had been completed, he thought the Omni was a hospital. (See Cert. Admin. R. at 541.)

⁴ On December 31, 2001, the legislature abolished the State Board of Tax Commissioners (State Board). 2001 Ind. Acts 198 § 119(b)(2). Effective January 1, 2002, the legislature created the Indiana Board of Tax Review (Indiana Board) as "successor" to the State Board. IND. CODE ANN. §§ 6-1.5-1-3; 6-1.5-4-1 (West 2007); 2001 Ind. Acts 198 § 95. Consequently, when a final determination was issued on StMM's appeal in January of 2004, it was issued by the Indiana Board.

⁵ Since initiating this appeal, StMM has conceded that, pursuant to this Court's holding in *Indianapolis Osteopathic Hospital, Inc. v. Department of Local Government Finance*, 818 N.E.2d 1009 (Ind. Tax Ct. 2004), *review denied*, the portion of the Omni that operates as a fitness/wellness center does not qualify for the charitable purposes exemption as provided in Indiana Code § 6-1.1-10-16. (See Pet'r Br. at 1.) In turn, the PTABOA has conceded that the pediatric rehabilitation portion of the Omni does qualify for the exemption. (See Resp't Br. at 3.) Thus, the sole issue remaining for the Court to decide is whether the roller skating rink qualifies for the charitable purposes exemption.

STANDARD OF REVIEW

This Court gives great deference to final determinations of the Indiana Board when it acts within the scope of its authority. *Miller Village Prop. Co., LLP v. Indiana Bd. of Tax Review*, 779 N.E.2d 986, 988 (Ind. Tax Ct. 2002), *review denied*. Consequently, the Court will reverse a final determination of the Indiana Board only if it is:

- (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
- (2) contrary to constitutional right, power, privilege, or immunity;
- (3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory jurisdiction, authority, or limitations;
- (4) without observance of procedure required by law; or
- (5) unsupported by substantial or reliable evidence.

IND. CODE ANN. § 33-26-6-6(e)(1) - (5) (West 2007).

DISCUSSION AND ANALYSIS

In Indiana, all tangible property is subject to taxation. See IND. CODE ANN. § 6-1.1-2-1 (West 2007). Nevertheless, the Indiana Constitution provides that the legislature may exempt certain categories of property from taxation. See IND. CONST. art. X, § 1. Acting pursuant to this grant of authority, the legislature has enacted Indiana Code § 6-1.1-10-16, which provides that “[a]ll or part of a building is exempt from property taxation if it is owned, occupied, and used [] for educational, literary, scientific, religious or charitable purposes.” IND. CODE ANN. § 6-1.1-10-16(a) (West 1999). This exemption also generally extends to the land on which the exempt building is situated, as well as personal property that is contained therein. See A.I.C. § 6-1.1-10-16(c), (e).

The taxpayer bears the burden of proving that it is entitled to the exemption it seeks. *State Bd. of Tax Comm'rs v. New Castle Lodge #147, Loyal Order of Moose, Inc.*, 765 N.E.2d 1257, 1259 (Ind. 2002). Accordingly, a taxpayer who seeks a charitable purposes exemption pursuant to Indiana Code § 6-1.1-10-16(a) must demonstrate that it owns, occupies, and uses its property for a charitable purpose and that the charitable purpose is the property's predominant use. *Indianapolis Osteopathic Hosp., Inc. v. Dep't of Local Gov't Fin.*, 818 N.E.2d 1009, 1014 (Ind. Tax Ct. 2004) (citation omitted), *review denied*. A charitable purpose will generally be found to exist if: 1) there is "evidence of relief of human want . . . manifested by obviously charitable acts different from the everyday purposes and activities of man in general[;]" and 2) there is an expectation, through the accomplishment of those charitable acts, that a benefit will inure to the general public sufficient to justify the loss of tax revenue. See *Indianapolis Elks Bldg. Corp. v. State Bd. of Tax Comm'rs*, 251 N.E.2d 673, 683 (Ind. Ct. App. 1969); *Foursquare Tabernacle Church of God in Christ v. State Bd. of Tax Comm'rs*, 550 N.E.2d 850, 854 (Ind. Tax Ct. 1990) (citation omitted).

StMM argues that its roller skating rink is entitled to a charitable purposes

exemption because it operates 100% of the time as a community recreational facility.⁶ (Pet'r Br. at 20, 29 (footnote added).) In turn, StMM claims that in operating as a community recreational facility, the roller skating rink "provides [the general public with] an important recreational community service, encourages fitness, and fosters community spirit[.]" it provides a "fun environment" in which members of the community may exercise and socialize. (Pet'r Br. at 20, 29.) To that end, StMM explains it charges only "nominal" fees (\$3.00 to \$5.00 per session and skate rentals of \$1.25) so that a cross-section of the community can afford to utilize the rink.⁷ StMM also explains that if the roller skating rink generates any revenue in excess of its operating expenses, that revenue is used to "subsidize [StMM's] hospital[s'] operations, including paying for the hospitals' charity care, Medicare or Medicaid program shortfalls and other community benefits[.]"⁸ (Pet'r Br. at 22 (footnote added).) (See also Cert. Admin. R. at 512, 562-

⁶ Thus, argues StMM, because its roller skating rink "is used as a community recreational facility like a park, swimming pool, golf course or skate boarding park[.]" it should receive an exemption "consistent with [a previous] finding of the Court . . . that a [] swimming pool and golf course owned by the [Plainfield Elks L]odge qualified for a charitable exemption[.]" (Pet'r Br. at 20-21 (citing *Plainfield Elks Lodge No. 2186 v. State Bd. of Tax Comm'rs*, 733 N.E.2d 32 (Ind. Tax Ct. 2000)).) A careful reading of that case, however, reveals that the Plainfield Elks' swimming pool and golf course did not receive the exemption merely because they were community recreational facilities; rather, those recreational facilities received the exemption because they were used for charitable purposes. See *Plainfield Elks Lodge No. 2186 v. State Bd. of Tax Comm'rs*, 733 N.E.2d 32 (Ind. Tax Ct. 2000).

⁷ The roller skating rink has been used for youth/teen/adult hockey leagues, school functions, private parties, or simply for "open-skate" by members of the community at large. (See Cert. Admin. R. at 379, 525-26, 531, 575.) It has also provided free skating passes, valued at \$6,200, to various school, church and civic organizations (to use as prizes for their own fundraising events) as well as Hoosier Boys Town. (See Cert. Admin. R. at 380-81.)

⁸ In 1999, StMM provided approximately \$8 million in charity care. (See Cert. Admin. R. at 126-31, 493-94.)

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This Court has previously acknowledged that the term “charity” can, and should, include more than the traditional “giving to the poor.” See *College Corner, L.P. v. Dep’t of Local Gov’t Fin.*, 840 N.E.2d 905, 909 (Ind. Tax Ct. 2006). Nevertheless, the Court cannot say that because StMM’s roller skating rink is open to the public it is entitled to the charitable purposes exemption.

First, StMM has made no showing as to how the roller skating rink relieves human want and suffering.⁹ Cf. with *Nat’l Assoc. of Miniature Enthusiasts v. State Bd. of Tax Comm’rs*, 671 N.E.2d 218, 221 (Ind. Tax Ct. 1996) (stating that the operation of a museum “while a noble endeavor, does not relieve human want and suffering”) (footnote added). Furthermore, StMM has done little more than to state that the public benefits from the property because the public can use the property. (See Pet’r Br. at 26, 29.) This explanation does little to show *how* the public benefits from the operation of such a facility *sufficient to justify the loss of the tax revenue*. Cf. with *College Corner*, 840 N.E.2d at 909-10 (where taxpayer demonstrated that in rebuilding inner-city infrastructure, it preserved area’s historic character, prevented community deterioration, and relieved the burdens of government, all of which were charitable purposes).

⁹ In fact, StMM argues that a charitable purposes exemption should not be contingent upon “evidence of relief of human want” at all. (See Oral Argument Tr. at 17.) More specifically, StMM argues that while this requirement has been part of Indiana’s jurisprudence since 1969 when the Indiana Court of Appeals decided *Indianapolis Elks Building Corporation v. State Board of Tax Commissioners*, 251 N.E.2d 673 (Ind. Ct. App. 1969), it is based on “a faulty legal analysis” and “should be banished from further use in Indiana[.]” (Oral Argument Tr. at 4-5, 7.) In turn, StMM invites this Court to implement a “new” test for determining whether property qualifies for a charitable purposes exemption: namely, whether the property is a “gift” to the general public for its use. (See Pet’r Reply Br. at 2; Oral Argument Tr. at 6, 11, 18-21; Pet’r Post-Hr’g Br. at 2-3, 6.) The Court declines StMM’s invitation.

Simply put, the evidence in this case does not provide an adequate basis to make the determination that StMM's roller skating rink is predominately used for charitable purposes.¹⁰ The burden was on StMM to establish its entitlement to an exemption. See *New Castle Lodge #147*, 765 N.E.2d at 1259. Based on the facts contained within the administrative record in this case, StMM has failed to carry its burden.

CONCLUSION

For the foregoing reasons, this Court AFFIRMS the Indiana Board's final determination.

¹⁰ To the extent StMM claims that the operation of its roller skating rink encourages physical fitness (see Pet'r Br. at 20, 29), this Court has previously rejected the notion that the promotion of exercise and healthy life styles constitutes a charitable purpose. See *Indianapolis Osteopathic Hosp.*, 818 N.E.2d at 1017-18.